

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Assigned Service Area
Agreement Between Northern States Power
Company d/b/a Xcel Energy and the Delano
Water, Light and Power Commission

ISSUE DATE: November 7, 2005

DOCKET NO. E-228, 002/SA-05-1445

ORDER APPROVING AGREEMENT

PROCEDURAL HISTORY

On September 1, 2005, Northern States Power Company d/b/a Xcel Energy (Xcel) and the Delano Water, Light and Power Commission (the City) filed a joint petition for approval of an agreement modifying their assigned service areas. Under the terms of the agreement, Xcel would transfer to the City:

1. Service rights to an annexed area being developed as a residential subdivision. This transfer would be made under Minn. Stat. § 216B.44, which permits municipal utilities to expand their assigned service areas to match their corporate boundaries upon payment of compensation to the displaced utility.
2. Service rights to additional territory adjacent to the annexed area. This transfer would be made to establish an even boundary line between the two utilities.
3. Service rights to several customers within the City's assigned service area whom Xcel had previously served by exception. This transfer would be made because Xcel could no longer serve these customers economically.
4. Service rights to one customer within Wright-Hennepin Cooperative's assigned service area whom Xcel had previously served by exception. This transfer would be made because Xcel could no longer serve this customer economically.¹
5. The distribution line that Xcel had been using to serve these customers.

The two utilities gave notice of the agreement to potentially affected customers. Several

¹ Before the date of the hearing, the utilities provided confirmation that Wright-Hennepin Cooperative Electric Association consented to the transfer.

customers initially objected; all but three withdrew their objections, however, when the developer of the annexed area agreed to pay the costs of transferring their service from one utility to the other.

The three customers who continued to object were located in the area adjacent to the annexed area, which was transferred to the City to avoid an irregular boundary line. Their objection was based mainly on the belief that transferring service rights to the municipal utility might facilitate the area's subsequent annexation, which they opposed. They also stated that they did not want to change utilities, but that if they had to change utilities, they would choose Wright-Hennepin Cooperative Electric Association, for its innovative conservation programs.

The City responded that the service area change did not make annexation more likely, that the City had a policy of annexing only with the consent of affected landowners, and that the municipal utility, too, had innovative conservation programs and rates comparable to Wright-Hennepin's.

On October 20, 2005, the matter came before the Commission. Having reviewed the entire record and having heard the comments of all parties, the Commission makes the following findings, conclusions, and Order.

FINDINGS AND CONCLUSIONS

I. Factual and Statutory Background

In 1974 the Minnesota Legislature determined that the orderly development of economical statewide electric service required granting electric utilities exclusive service rights within designated service areas:

It is hereby declared to be in the public interest that, in order to encourage the development of coordinated statewide electric service at retail, to eliminate or avoid unnecessary duplication of electric utility facilities, and to promote economical, efficient, and adequate electric service to the public, the state of Minnesota shall be divided into geographic service areas within which a specified electric utility shall provide electric service to customers on an exclusive basis.

Minn. Stat. § 216B.37.

The Commission was required to establish assigned service areas for all electric utilities by April 12, 1975 and to prepare official service area maps showing the boundaries of the service areas established. To expedite this process, the statute encouraged utilities to reach agreements on service area boundaries and to submit them to the Commission for approval and ratification. Minn. Stat. § 216B.39, subd. 4. That is how the service area boundaries between these two utilities were set.

The Legislature recognized that service areas would require adjustment over time, especially as cities and towns with municipal utilities grew. The Legislature therefore established a procedure,

codified at Minn. Stat. § 216B.44, to allow municipal utilities to acquire portions of other utilities' service areas within their city limits. That statute authorizes and encourages municipal utilities and the utilities they are displacing to agree on compensation for areas municipal utilities are acquiring. If they are unable to agree, however, the statute authorizes either party to seek a compensation determination from the Commission.²

The statute also authorizes assigned utilities to enter into written agreements permitting non-assigned utilities to serve customers within the assigned utility's service area.³ And the Commission has continuing authority to adjust assigned service area boundaries when necessary to promote the goals of the assigned service area statutes or to otherwise serve the public interest.⁴

II. Commission Action

The Commission will approve the assigned service area agreement between the City and Xcel.

First, by agreeing on compensation for service rights to the annexed area, the two utilities were acting in accord with their rights and responsibilities under Minn. Stat. § 216B.44. The Commission has reviewed the provisions of the agreement relating to the annexed area, finds them to be consistent with the public interest, and will approve them.

The transfer of service rights to the exception customers, too, is consistent with the public interest. By granting service rights to the utility able to serve these customers most economically and efficiently, it serves the statutory goal "to promote economical, efficient, and adequate electric service to the public."⁵

The Commission also concurs with the utilities that it serves the public interest to redraw their service area boundaries to eliminate jagged boundary lines. Uneven boundaries promote confusion and conflict. Clarity and certainty are primary goals of the assigned service area statute, and straight boundary lines effectively serve that goal.

However strongly individual customers may prefer specific utility providers, the statute requires the Commission to set assigned service area boundaries to promote the broad, statewide public interest. That public interest is best served by honoring reasonable agreements between utilities,

² Minn. Stat. § 216B.44 (b).

³ Minn. Stat. § 216B.40.

⁴ *In the Matter of the City of White Bear Lake's Request for an Electric Utility Service Area Change Within its City Limits; In the Matter of the Petition of Northern States Power Company for an Electric Utility Service Area Change Within the City of White Bear Lake*, 443 N.W.2d 204 (Minn.App. 1989).

⁵ Minn. Stat. § 216B.39.

including agreements to straighten service area boundaries to ensure clarity and ease of administration.

For all these reasons, the Commission will approve the assigned service area agreement submitted by these utilities September 1, 2005.

ORDER

1. The Commission hereby approves the Electric Service Territory Agreement Between Northern States Power Company d/b/a Xcel Energy and the City of Delano, acting by and through the Delano Water, Light and Power Commission, filed September 1, 2005.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 201-2202 (voice) or 1-800-627-3529 (MN relay service).